

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SEAN E. PINNIX,)	
)	
Plaintiff,)	
)	
v.)	1:11CV668
)	
DURHAM COUNTY GOVERNMENT,)	
JOYCE LOGAN, ROBIE MCLAMB,)	
KIMBERLY SIMPSON, ELAINE)	
HYMAN, JIM ULLMAN, and)	
CHAELE GARLAND-DOWNEY,)	
)	
Defendants.)	

ORDER

This matter is before this court for review of the Order and Recommendation ("Recommendation") filed on September 28, 2012, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 17.) In the Recommendation, the Magistrate Judge recommends that the motion to dismiss (Doc. 13) filed by Defendants Durham County Government, Joyce Logan, Robie McLamb, Kimberly Simpson, Elaine Hyman, and Chaela Garland-Downey be granted in part, that all claims against the individual defendants should be dismissed pursuant to Rule 12(b)(6), and that the motion to dismiss as to Defendant Durham County Government should be denied without prejudice to refileing. The Magistrate Judge also recommends that all claims against Defendant Jim Ullman be dismissed pursuant to 28 U.S.C.

§ 1915(e)(2)(B). The Recommendation was served on the parties to this action on September 28, 2012. Counsel for Defendant Durham County Government filed timely objections (Doc. 19) to the Recommendation, and pro se Plaintiff responded to Defendant Durham County Government's objections (Doc. 22).

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge . . . or recommit the matter to the [M]agistrate [J]udge with instructions." 28 U.S.C. § 636(b)(1).

This court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation.¹ This court therefore adopts the Recommendation.

¹ The court notes Defendant Durham County Government's objection to the Magistrate Judge's recommendation that its motion to dismiss be terminated as moot, without prejudice to refile after proper service. After being properly served (Doc. 21), Defendant Durham County Government filed a Second Motion to Dismiss (Doc. 23), which the court will consider on the merits. This objection, therefore, is now moot.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 17) is **ADOPTED**. **IT IS FURTHER ORDERED** that the motion to dismiss (Doc. 13) filed by Defendants Durham County Government, Joyce Logan, Robie McLamb, Kimberly Simpson, Elaine Hyman, and Chaela Garland-Downey is **GRANTED IN PART**, that all claims against the individual Defendants are **DISMISSED** pursuant to Rule 12(b)(6), and that the motion to dismiss as to Defendant Durham County Government is **DENIED WITHOUT PREJUDICE** to refiling. **IT IS FURTHER ORDERED** that all claims against Defendant Jim Ullman are **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B).

This the 8th day of January, 2013.



United States District Judge